

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.1:05-cv-10606-WGY

SHERYL SATTERTHWAITE, as Executrix)
of the Estate of DENNIS SATTERTHWAITE,)
Plaintiff)
)
vs.)
)
UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

DEFENDANTS CATHERINE SULLIVAN, R.N.C. AND UHS OF WESTWOOD
PEMBROKE, INC.'S MOTION TO OBTAIN COURT ORDERS TO OBTAIN RECORDS
FROM PLAINTIFF'S DECEDENT'S CARE PROVIDERS

The Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., respectfully request that this Honorable Court Order Caritas Norwood Hospital, Jordan Hospital, McLean Hospital, and High Point Treatment Center, to release any and all medical and/or mental health treatment records regarding the Plaintiff's decedent, Dennis Satterthwaite, to their attorneys. Proposed Orders are attached to this Motion for the Court's convenience. In support of this Motion, the Defendants state the following.

1. This is a wrongful death case in which the Plaintiff, Sheryl Satterthwaite, claims that the Defendants provided negligent care and treatment to her husband, Dennis Satterthwaite, with respect to his depression, and that their negligence caused Mr. Satterthwaite to commit suicide on May 30, 2002.

2. In discovery, the Defendants have learned that Mr. Satterthwaite received psychiatric assessments/treatment at McLean Hospital and Jordan Hospital. The Defendants have also learned that Mr. Satterthwaite was referred to Caritas Norwood Hospital for an assessment of his mental health. Additionally, Mr. Satterthwaite's father testified at his deposition that his son received psychiatric treatment at High Point Treatment Center.

3. Based on the experience of the Defendants' attorney and knowledge of HIPAA, medical care providers in Massachusetts will not release psychiatric records of a patient without a release from the patient or his representative or a Court Order. See Affidavit of Amy J. DeLisa, attached as Exhibit A.

4. The Defendants' attorney contacted the Plaintiff's attorney to determine if the Plaintiff would provide executed releases, allowing the Defendants to obtain these records directly from the care providers. The Plaintiff's attorney refused to provide these releases. See id.

5. The Defendants request that this Court issue Orders requiring Mr. Satterthwaite's care providers to produce his treatment records. These records are clearly relevant, in that they are reasonably calculated to contain information regarding Mr. Satterthwaite's physical and mental condition prior and subsequent to his treatment at UHS of Westwood Pembroke, Inc.

6. Further, the Plaintiff has made her decedent's mental condition an element of the claims in this case. See Complaint. Accordingly, the statutory privileges of M.G.L. c. 233, § 20B and M.G.L. c. 112, § 135A do not apply.

Wherefore, the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood
Pembroke, Inc., respectfully request that this Honorable Court Order Jordan Hospital, Caritas
Norwood Hospital, McLean Hospital, and High Point Treatment Center to produce Dennis
Satterthwaite's records to defense counsel. The Defendants agree to provide copies of all records
they receive in response to these Orders to all counsel.

LOCAL RULE 37.1 CERTIFICATION

I, Amy J. DeLisa, certify that, in compliance with Local Rule 37.1, I conferred in good
faith with the Plaintiff's counsel, David McCormick on or about October 30, 2006, regarding
whether he would provide executed releases from his client, allowing my office to obtain Mr.
Satterthwaite's treatment records directly from his care providers. Attorney McCormick
informed me that it is the policy of his firm not to provide releases for medical records.

/s/ Amy J. DeLisa

JANET J. BOBIT, BBO# 550152

AMY J. DeLISA, BBO# 645004

Attorneys for Defendants,

UHS of Westwood Pembroke, Inc.,

and Catherine Sullivan, R.N.C.

HUNTER & BOBIT, P.C.

83 Atlantic Avenue

Boston, MA 02110

(617) 371-1440

DATED: November 21, 2006

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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SHERYL SATTERTHWAITE, as Executrix)
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Plaintiff)
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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

AFFIDAVIT OF AMY J. DeLISA IN SUPPORT OF DEFENDANTS CATHERINE
SULLIVAN, R.N.C. AND UHS OF WESTWOOD PEMBROKE, INC.'S MOTION TO
OBTAIN COURT ORDERS TO OBTAIN RECORDS FROM PLAINTIFF'S DECEDENT'S
CARE PROVIDERS

1. I, Amy J. DeLisa, am an attorney licensed in the Commonwealth of
Massachusetts and an associate of Hunter & Bobit, P.C., which has been retained
to represent the Defendants, UHS of Westwood Pembroke, Inc., and Catherine
Sullivan, R.N.C.
2. In my experience, Massachusetts medical care providers will not provide counsel
with copies of a patient's psychiatric treatment records without a release from the
patient, the patient's representative, or a Court Order.
3. Based on my experience with HIPAA, Massachusetts care providers generally
require a Court Order or release prior to providing copies of a patient's treatment
records to counsel.

4. On or about October 30, 2006, I spoke with the Plaintiff's counsel, David McCormick and asked if he would provide executed releases from his client, allowing me to obtain copies of Mr. Satterthwaite's treatment records directly from his care providers. Attorney McCormick informed me that it is the policy of his firm not to provide releases for medical records.

Signed under the pains and penalties of perjury this 21st day of November, 2006.

/s/ Amy J. DeLisa
Amy J. DeLisa

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Caritas Norwood Hospital** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

Dated: _____

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DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Jordan Hospital** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

Dated: _____

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **McLean Hospital** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

Dated: _____

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UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **High Point Treatment Center** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

Dated: _____

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UNITED STATES OF AMERICA,)
UHS of WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPPAS, and,)
CATHERINE SULLIVAN,)
Defendants)

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on November 21, 2006.

/s/ Amy J. DeLisa

JANET J. BOBIT, BBO# 550152
AMY J. DeLISA, BBO# 645004
Attorneys for Defendants,
UHS of Westwood Pembroke, Inc.
and Catherine Sullivan
HUNTER & BOBIT, P.C.
83 Atlantic Avenue
Boston, MA 02110
(617) 371-1440

DATED: 11-21-06